

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19002
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting property tax reduction benefits for 2005. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a property tax reduction application on or about April 5, 2005. During review of that application and information available to the Tax Commission, the staff made a determination that the petitioner did not qualify as a claimant for the property tax reduction benefit. The staff sent the petitioner a letter advising her of the intent to deny her the benefit.

Upon receipt of the letter, the petitioner telephoned the Property Tax Reduction Coordinator. She explained her status as a widow qualified her as a claimant. She said she would request a copy of her husband's death certificate and forward it to the Tax Commission. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

The code sets out certain eligibility requirements for persons seeking the property tax reduction benefit. In her application for the benefit and in her letter of protest, the petitioner claimed she qualified for the benefit as a widow.

To establish that claim, the petitioner submitted a copy of her husband's death certificate. The death certificate showed a different last name for the decedent and the petitioner than the petitioner's last name shown in the title to the property and in the application for the property tax reduction benefit.

In a telephone conversation with the Tax Appeals Specialist, the petitioner explained the difference. She said she was married and divorced subsequent to the death of her husband. Available records confirm those events.

Idaho State Tax Commission Property Tax Administrative Rule 700(07) defines widow/widower as: "A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled."

The petitioner stated she remarried after the death of her husband. She took her new husband's name at that time. Subsequently, the marriage was dissolved by divorce. According to the requirements of Idaho Code § 63-701 and Administrative Rule 700 describing the property tax reduction benefit program, the petitioner gave up her status as a widow when she remarried following the death of her husband. Only an annulment could have dissolved the marriage without having an effect on the petitioner's status as a widow.

The petitioner does not meet the other requirements to qualify as a claimant for the property tax reduction benefit for 2005. She must be denied the benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the County Commissioners under Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
